

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH HAYDEN,

Plaintiff,

-against-

THE CITY OF NEW YORK¹,
AHMED ABDALLA, ADAM KOTKOWSKI

**JOINT PROPOSED
VOIR DIRE**

17 Civ. 1894 (RJS)

Defendants.

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PROPOSED VOIR DIRE

A. Personal and Family Background

1. What is your address?
2. How long have you lived there?
3. What brought you there?
4. Are you married?
5. If so, for how long?
6. Do you have any children?
7. If so, how old are each of them?
8. Where do they live?
9. If they are out of school, what are their occupations?

B. Education, Occupation, and Training

10. What is your highest level of education?

¹ Defendants object to the inclusion of the City in the caption.

11. If your highest level of education includes any post-High School education, what was the nature of that education?
12. If you received any college or post-graduate education, please describe where and what you studied, as well as when you graduated and with what degrees.
13. What is your current occupation and where do you work?
14. How long have you worked at your present job? If you are retired or unemployed, please state how long you worked at your last job.
15. What are or were your job responsibilities?
16. Does your job, or did any prior job, cause you to work with any law enforcement officers? If so, please explain.
17. Does your current job, or did any prior job, cause you to work with any medical care providers, such as doctors, psychiatrists, nurses, etc.?
18. Have you, your spouse, or a close friend or relative ever been employed by the New York City Police Department or any other police department or as a peace officer, corrections officer, or any type of job that involves public safety or law enforcement?
 - a. If so, which person(s) were so employed?
 - b. What is your relationship to each such person?
 - c. What was the nature of such employment?
 - d. Have you ever spoken with them about their employment? If so, what kinds of discussions have you had?
 - e. Do you think those discussions, or anything else related to each person, would have any effect on your ability to sit as a neutral juror in this case? Why or why not?
19. Have you, your spouse, or a close friend or relative ever been employed by any other public agency or entity, including, but not limited to, any municipal law department or any prosecutor's office?
 - a. If so, which person(s) were so employed?
 - b. What is your relationship to each such person?
 - c. What was the nature of such employment?
 - d. Have you ever spoken with them about their employment? If so, what kinds of discussions have you had?
 - e. Do you think those discussions, or anything else related to each person, would have any effect on your ability to sit as a neutral juror in this case? Why or why not?

C. Attitudes Toward Lawsuits and Damages

20. Do you think that people should be able to sue police officers and collect damages if the evidence shows that their constitutional rights were violated by police officers?
21. Do you believe that the fact that the plaintiff started this lawsuit and is here today for trial means there must be at least some merit to the plaintiff's allegations?
22. *Do you believe that a person should have the right to recover "punitive damages" – damages to punish a police officer if it can be shown he engaged in intentional wrongdoing? If not, why?*²
23. This case involves claims by Plaintiff that the defendant police officers used excessive force against him. Is there anything about those charges that would prevent you from sitting or that would make it difficult for you to sit as a neutral juror? If so, please explain.
24. *Would you have any reservations whatsoever about rendering a verdict against a local government? If so, please explain.*
25. *Would you have any reservations whatsoever about rendering a verdict against New York City Police Department officers? If so, please explain.*
26. In this case, the Judge will instruct you on the law. Can you accept the law as given to you by the Judge and apply it to the evidence, even if you feel the law should be different?

D. Contact with the Judicial System

27. Do you know anyone who works as a judge, clerk, bailiff, attorney, court reporter, or any other court-related job?
 - a. If so, which person(s) were so employed?
 - b. What is your relationship to each such person?
 - c. What was the nature of such employment?
 - d. Have you ever spoken with them about their employment? If so, what kinds of discussions have you had?
 - e. Do you think those discussions, or anything else related to each person, would have any effect on your ability to sit as a neutral juror in this case? Why or why not?

² Defendants object to all questions herein which appear in *Italics*.

28. Have you ever been a witness in any type of lawsuit? If so, please describe the date, place, and nature of the lawsuit, your role as a witness, and the outcome of the lawsuit.
29. If you have been a witness in any type of lawsuit, do you think that your experience as a witness would have any effect on your ability to sit as a neutral juror in this case? In what way?
30. Have you, or any member of your family, or a close friend, ever sued anyone for money in court, or been sued by anyone for money in court? If so, please describe the nature of the lawsuit, the role of any such person, and the outcome.
31. If you or someone else close to you has sued or been sued for money in court, do you think that the experience would have any effect on your ability to sit as a neutral juror in this case? In what way?
32. Have you ever served on a jury before? If so:
 - a. Please describe where and when.
 - b. Please describe whether each case was civil or criminal.
 - c. Please describe the nature of the charges or issues involved.
 - d. Did the case result in a verdict or a hung jury?
 - e. Were you the foreperson?

E. Attitudes Toward Police Officers/Uses of Force

33. Do you have any preconceived notions or beliefs about police work or law enforcement that would make it difficult for you to be impartial in this case? If so, please explain.
34. Have you or a close friend or relative ever had any contact with the police such as being stopped, arrested, or reporting a crime? If so [Outside the Presence of Other Members of the Jury]:
 - a. Please describe where and when.
 - b. Please describe the nature and outcome of any such contact.
 - c. Do you think any such contact would affect your ability to sit as a neutral juror in this case? If so, in what way?
35. Have you or a close friend or family member ever made a complaint against a law enforcement officer? If yes, please describe the circumstances and outcome of the complaint.

36. Have you or a close friend or relative ever claimed that the police used excessive force on her or him? If so, please explain.
37. Have you or a close friend or relative ever claimed that the police falsely arrested her or him? If so, please explain.
38. A police officer who is a witness should not be believed any more or less than any other witness. Is there any reason that you would find a police officer's testimony either more credible or less credible than the testimony of a witness who is not a police officer?
39. *Do you think police officers should be given the benefit of the doubt when their conduct is challenged and there is a dispute arising out of their conduct? Why or why not?*
40. *Do you believe you might be inclined to give greater or lesser weight to testimony of a police officer witness than you would to that of an ordinary citizen because of the witness's status as a police officer? Why or why not?*
41. You may have heard or read about incidents involving the New York City Police Department or individual officers that have been in the news. These situations have absolutely nothing to do with these police officers. To the extent you have any feelings about any unrelated incidents involving the NYPD, either positive or negative, will you be able to set those feelings aside and render a verdict in this case based solely on the evidence?

F. Other Matters

42. Are you active in any groups, clubs, or organizations?
 - a. If so, what are their names and purposes, and how active are you?
43. What magazines, newspapers, and websites do you regularly read, if any?
44. What TV shows do you regularly watch, if any?
45. Do you regularly read blogs? If so, what are they?
46. Do you regularly read books? If so, what type(s)?
47. Do you watch television shows, movies, etc., about law enforcement, lawyers, police, or trials? If so, can you put aside any expectations you might have about this trial that are based on those shows?
48. What websites do you regularly visit?

49. Please name a famous person living or dead who you admire, and explain why.
50. Do you know the Plaintiff in this case, whose full name is Joseph Hayden?
- If so, how?
 - What is the nature of your relationship, if any?
 - Will that relationship have any effect on your consideration of the case?
51. The Plaintiff is represented by Robert J. Boyle. Have you ever heard of him ?
- If so, how?
 - What is the nature of your relationship, if any?
 - Will that relationship have any effect on your consideration of the case?
52. The Defendants in this case are Police Officers Ahmed Abdalla, and Adam Kotkowski. Have you ever heard of either of them?
- If so, how?
 - What is the nature of your relationship, if any?
 - Will that relationship have any effect on your consideration of the case?
53. The Defendants are represented by Assistant Corporation Counsel Elissa Fudim. Do you know or have you ever heard of Ms. Fudim, the?
- If so, how?
 - What is the nature of your relationship, if any?
 - Will that relationship have any effect on your consideration of the case?
54. Do you know any of the following people (aside from Plaintiff and Defendants) who may be called as witnesses or who may be mentioned in the testimony?
- Five Mualimm-Ak.
 - Terrence Slater
 - Nuratu Otulana
 - Joshua Kristal
 - Rachel Levine
 - Channing Tyner
 - Ellen Levan, M.D.
 - Irvin McSweeney
- If so, how?
 - What is the nature of your relationship, if any?
 - Will that relationship have any effect on your consideration of the case?

55. Do you have any personal, family, or work responsibilities that you believe may interfere with your ability to act as a juror in this case? If so, what are they?
56. Do you have any health problems that would make it difficult for you to sit for any extended period of time or otherwise be a juror in this case?
57. Do you have any eyesight or hearing problems?
58. Are you fluent in the English language?
59. Given your background, life experience, opinions, or anything else, is there any reason whatsoever that you feel that you should not or cannot serve as a juror on this case?
60. *Do you think that people should be able to sue police officers and collect damages if the evidence shows that their constitutional rights were violated?*
61. *Based solely on what you know about this case right now, do you have any opinions about whether a citizen should be able to sue a police officer because his/her constitutional rights have been violated?*
 - a. *If so, what opinions do you hold?*
 - b. *Do you think that lawsuits such as this one are brought too often?*
 - c. *Do you think that your opinions will affect your decision in this case? In what way?*
62. *Have you made your mind up about this case? If so, what have you decided?*
63. *Do you have any opinions about people who have prior criminal histories, including felony convictions? If so, please state them.*
64. *Do you believe people with criminal histories are more or less trustworthy than other people? Please explain.*
65. *Do you believe people with criminal histories are more or less entitled to compensation if their rights are violated than other people? Please explain.*
66. *You will learn that Plaintiff has prior felony convictions. Will knowing any of those facts prevent you from acting as a neutral factfinder in this case? If so, please explain.*

DATED: New York, New York
September ____, 2019

Respectfully submitted,
ROBERT J. BOYLE
277 Broadway
Suite 1501
New York, N.Y. 10007
(212) 431-0229
Rjboyle55@gmail.com

Elissa P. Fudim
ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007
(212) 356-3549
efudim@law.nyc.gov